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Tulare County Pesticide Regulatory Program 2007/2008 Performance Evaluation Report

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Performance Evaluation of the Tulare County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides an evaluation of Tulare County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for fiscal year 2007/08. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Program Standards Compendium.

I. Summary Report of Core Program Elements

Throughout the fiscal year, the core areas of the Tulare's County pesticide enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and an evaluation of pesticide use and illness investigations for the fiscal year 2007/2008.

A) Restricted Materials Permitting

The restricted materials permitting program meets DPR standards and work plan goals.

B) Compliance Monitoring

The compliance monitoring program meets DPR standards and work plan goals.

C) Enforcement Response

The enforcement response program meets DPR standards and work plan goals.

Summary Statement:

No deficiencies were identified in the Tulare County Agricultural Commissioner's pesticide use program and the program is currently effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

Permit Issuance

All Tulare County Agricultural Commissioner staff who issue restricted materials permits are experienced biologist and are knowledgeable of pesticide laws and regulations. All Tulare County pesticide use enforcement district staff possesses certificates/licenses in Pesticide Regulation and Investigation and Environmental Monitoring. Biologists' experience ranges from 1-14 years in pesticide enforcement activities. All qualified pesticide enforcement staff prepare and issue restricted materials permits; the most experienced biologists review all permits to ensure they are correct and complete before final issuance.

Tulare County conducts oral interviews with the person applying for a restricted materials permit to determine if they are the operators of the property. If they are not operators of the property, letters of authorization are required to be in possession of the applicant prior to the issuance of

the permit. If the applicant possesses a private applicator certificate or a qualified applicator license, Tulare County verifies and lists the numbers on the restricted materials permits.

Tulare County uses the Restricted Materials Management System (RMMS) to issue permits. Restricted materials permits are amended in person (limited by fax) using DPR's supplemental form or if the authorized representative signs and return the form to the Tulare CAC. When the permit is amended, the change is made on a supplemental page and is attached to the original permit, as well as entered into the RMMS program.

Prior to approving the use of a restricted material, the Tulare CAC checks to see if the pesticide is registered for use on that crop using DPR's pesticide label database. The inspector issuing the restricted materials permit also reviews any permit condition that may apply to the pesticides on the permit and conditions it. Assessor maps are used to identify sensitive sites that include labor camps, dairies, residential areas, roadways, and schools. These maps are issued to growers when they apply for their pesticide permits.

The Tulare CAC issues one-year and multiyear restricted material permits. They maintain more than 2,521 restricted materials permits and 368 operator IDs. Annual training on the policies and procedures used to issue permits and properly identifying sites is given by the PUE Deputy.

DPR's evaluation determined that permits are:

- Issued only to qualified applicants;
- Signed by authorized persons;
- Issued for a one year and multiyear time periods;
- Permit amendments follow approved procedures.

Site Evaluation

Notices of intents (NOIs) are received by fax machine, mail, and a drop box located at the main office. Licensed pesticide enforcement staff reviews NOIs and checks them against the permit in the computer. One biologist remains in the main office each day and is responsible to review the day's NOIs and issue permits. Every inspector in the field has a mobile radio and cell phone and checks sites in sensitive areas when NOIs are submitted. Sensitive sites include parks, residential areas, schools, hospitals, and labor camps. The inspectors have the authority to accept or deny NOIs and contact the operator of the property and the pest control business when they are denied. When NOIs are denied, the property operator and pest control business are notified and a denial form is completed and filed in the restricted materials permit file.

The Tulare CAC has developed strict permit conditions for the use of metam sodium. The permit conditions vary for the use of metam sodium applied through sprinklers, drip, or shank methods. The buffer zones and water sealing methods are different for the various application methods and once a certain method is denied, a second method may be allowed in making the application. All fumigant applications near sensitive sites are inspected, assuring the buffer zones are both accurate and adequate.

Tulare County evaluates NOIs listing restricted material defoliants that are to be applied near sensitive sites and denies those NOIs if the site is too close to residential areas. The application may be denied, conditioned, or be made using non-restricted pesticides. Phenoxy herbicide

applications are also evaluated when a notice of intent is submitted and are denied if near sensitive crops. Cutoff dates have been implemented that have prevented crop damage and losses due to several of the phenoxy herbicides including 2,4-D, MCPA, and Dicamba.

Tulare County has also implemented permit conditions for non-restricted herbicides such as glyphosate, and carfentrazone products because of damage to sensitive crops the previous year. Tulare County implemented new restrictions that prohibit aerial applications of restricted use pesticides within a ¼ mile of a school in session or due to be in session within 24 hours, and within a ¼ mile of an occupied farm labor camp or a residential area as defined by the Tulare County Agricultural Commissioner.

More than 12,200 NOIs were processed in 2007/08. Pre-application site inspections were conducted above the 5% for fumigant and defoliant applications around sensitive sites.

The NOIs:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The program reviews all notices of intents in a timely manner and adequately monitored agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

B) Compliance Monitoring

Inspections

Tulare County Agricultural Commissioner staff attended training sessions in 2007/08 that included the structural regulatory program, restricted materials permit issuance, and inspection procedures. They participated in weekly phone conferences with DPR and other counties regarding upcoming fumigation regulations. Tulare CAC staff also attended training related to the new fumigation and respiratory regulations that were implemented in January 2008. The Tulare County pesticide enforcement staff holds weekly meetings to discuss pesticide issues, safety, and to review pesticide use enforcement notes written by the Deputy Commissioner.

Inspectors conducting pesticide use inspections issue a violation notice for any criteria item marked “No” on the inspection forms. When worker safety non-compliances are found during an inspection, the inspector conducts a headquarters/employee safety inspection and any follow-up inspections required. The inspector also reviews the compliance history for the firm/person inspected and meets with the deputy before issuing a violation notice. The Deputy is responsible for preparing the case file and notice of proposed action.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements;
- Include interviews of employers and employees;
- Adequately document violations; and
- Include appropriate follow-up inspections and procedures.

Investigations

Tulare County staff who conduct pesticide enforcement investigations are designated as Agricultural Inspector IIIs. Two inspectors with more experience are assigned to investigate all pesticide-related illnesses while the remaining licensed staff investigates all other episodes. All incidents and complaints associated to pesticides are documented, investigated and written reports are made on each case.

C) Enforcement Response

When non-compliances are found during inspections and investigations, Tulare County Pesticide Enforcement staff issues violation notices and clerical staff data enters the information. The Deputy and the inspector review the compliance history of each respondent and utilize the enforcement guidelines to determine if enforcement action is warranted. Inspectors are required to conduct follow-up inspections including a headquarter employer/employee inspection when worker safety non-compliances are found.

Enforcement actions are taken when violations are found on incidents involving drift, pesticide related illnesses, or when required by the enforcement response plan. The Tulare County Deputy Commissioner in charge of the pesticide enforcement program is currently working with their DPR enforcement branch liaison on implementing the enforcement response plan that includes other enforcement options including referral of cases to DPR or the local District Attorney. When enforcement actions are not taken, a decision report is written listing the violations found, classification, the respondent's compliance history, and an explanation documenting the CAC's decision to take a compliance action.

Tulare County issued 35 agricultural civil penalties in 2007/08.

The CAC' enforcement program was found to:

- Initiate the appropriate action when violations are identified;
- Sufficiently support compliance, enforcement and public protection actions.

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when imposing civil penalties.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

Outreach and Training

The Tulare County Agricultural Commissioner's office provides pesticide safety training in English and Spanish to workers including school employees, growers, pesticide applicators, and farm labor contractors each year. The course includes information on pesticide safety, first aid, container disposal, heat stress, how to read and understand pesticide labels, and updates on pesticide laws and regulations.

Staff from the Tulare County Agricultural Commissioner's office participates in California Association of Pest Control Advisers (CAPCA) and Pesticide Applicators Professional Association (PAPA) meetings to provide outreach on laws and regulations regarding pesticides. They also provide outreach on laws and regulations to growers at various pesticide dealers throughout the county.

Tulare CAC maintains a toll-free phone number to report suspected pesticide drift and misuse. They also distribute more than 3,500 copies of their flyer "Pesticide drift, who should you call" which is available also in English and Spanish. Staff also participates in outreach events relative to farm worker health and safety.